# DEPARTMENT OF TAXATION
# 2017 Fiscal Impact Statement

**1. Patron** Hyland F. "Buddy" Fowler

**2. Bill Number** HB 1397
**House of Origin:**
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

**3. Committee** House Finance

**4. Title** Income Tax; Subtraction for Persons in the Virginia National Guard

**Second House:**
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

**5. Summary/Purpose:**

This bill would increase the individual income tax subtraction for wages or salaries received for active and inactive service in the Virginia National Guard from a maximum of $3,000 per taxable year to $5,000 per taxable year.

This bill would be effective for taxable years beginning on and after January 1, 2017.

**6. Budget amendment necessary:** Yes.
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**7. Fiscal Impact Estimates are: Preliminary**. (See Line 8.)
**7b. Revenue Impact:**

| *Fiscal Year* | *Dollars* | *Fund* |
|---|---|---|
| 2016-17 | $0 | GF |
| 2017-18 | ($570,000) | GF |
| 2018-19 | ($413,000) | GF |
| 2019-20 | ($430,000) | GF |
| 2020-21 | ($449,000) | GF |
| 2021-22 | ($468,000) | GF |
| 2022-23 | ($486,000) | GF |

**8. Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have a negative General Fund revenue impact of $570,000 in Fiscal Year 2018; $413,000 in Fiscal Year 2019; $430,000 in Fiscal Year 2020; $449,000 in Fiscal Year 2021; $468,000 in Fiscal Year 2022; and $486,000 in Fiscal Year 2023. These

estimates are based on the number of taxpayers who actually claimed the current National Guard subtraction in Taxable Year 2014.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary:** No.

**11. Other comments:**

Virginia's National Guard Subtraction

During the 1987 Session, the General Assembly enacted legislation that provides a subtraction for the amount of wages or salaries received for active and inactive service in the Virginia National Guard. The subtraction is limited to those members of the Virginia National Guard whose ranks corresponds to a pay grade at or below O-3. O-3 is a pay grade indicating that an officer has achieved the rank of captain. Therefore, captains and persons below that rank, including first lieutenants, second lieutenants, and enlisted personnel, are eligible for the subtraction. All other persons, including majors, colonels, and generals, are ineligible for the subtraction. The subtraction may not exceed the amount of income derived from 39 calendar days of service in the Virginia National Guard or $3,000, whichever amount is less. Members of the National Guard typically are required to train 39 calendar days a year. During Taxable Year 2014, this subtraction was claimed by 3,930 taxpayers.

Other Virginia Military Tax Preferences

In computing Virginia taxable income, taxpayers may subtract the following military-related items from federal adjusted gross income:

- All military pay and allowances earned while serving in a combat zone or qualified hazardous duty area, to the extent they were included in federal adjusted gross income.

- $15,000 of military basic pay for military personnel on extended active duty for periods in excess of ninety days. The subtraction amount is reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds $15,000 and will be reduced to zero if such pay is equal to or exceeds $30,000.

- Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

- The amount of military death gratuity payments received after September 11, 2001, by survivors of military personnel who are killed in the line of duty. This subtraction amount must be reduced dollar-for-dollar by the amount that is allowed as an exclusion from federal adjusted gross income to the survivor on his or her federal income tax return.

For taxable years beginning on or after January 1, 2011, Virginia exempts from taxation the real property, including the joint real property of a husband and wife, and the land, not exceeding one acre, upon which the real property is situated of any military veteran who has been rated by the U.S. Department of Veterans Affairs to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The surviving spouse of a veteran may also qualify for this exemption, so long as the following conditions are met: the veteran's death occurred on or after January 1, 2011; the surviving spouse does not remarry; and the surviving spouse continues to occupy such real property as his or her principal place of residence.

Federal Military Tax Preferences

While federal tax law has no provision comparable to Virginia's National Guard subtraction, taxpayers may receive the following military-related tax preferences:

- An exclusion for compensation received by enlisted military personnel for active-duty service in a combat zone. For commissioned officers, the exclusion is capped at the highest enlisted pay amount, plus any hostile fire or imminent danger pay received.

- An exclusion for income received from a veterans' benefit paid under a law, regulation, or administrative practice administered by the Department of Veterans Affairs.

- An exclusion for income amounts received as a pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the Armed Forces of any country.

- A deduction for unreimbursed travel expenses if a member of a reserve component of the United States Armed Forces travels more than 100 miles away from home in connection with the performance of services as a member of the reserves.

- A deduction for the cost to buy and maintain military uniforms if the taxpayer is prohibited from wearing such uniforms when off duty.

- A waiver of penalties for making early withdrawals from retirement plans for certain distributions to qualified military reservists called to active duty.

National Guard Subtractions in Other States

Fourteen states (Arkansas, Hawaii, Illinois, Indiana, Kentucky, Minnesota, Mississippi, North Dakota, Oklahoma, South Carolina, Vermont, Virginia, West Virginia, and Wisconsin) allow subtractions for income received for National Guard service. Five of these states (Kentucky, Illinois, Mississippi, Oklahoma, and Virginia) have broad subtractions available for all or a large portion of the income received for National Guard service, subject to certain limitations. Other states have narrow subtractions available only

in specific situations. For example, West Virginia's subtraction is limited to members of the National Guard or the United States Armed Forces who are either:

- Called to active duty pursuant to an Executive Order of the President for duty in Operation Enduring Freedom or for domestic security duty; or

- Separated from active military service during the year.

Proposed Legislation

This bill would increase the individual income tax subtraction for wages or salaries received for active and inactive service in the Virginia National Guard from a maximum of $3,000 per taxable year to $5,000 per taxable year.

This bill would be effective for taxable years beginning on and after January 1, 2017.

Similar Bills

**House Bill 1676** would allow a Virginia resident to claim a subtraction for wages or salary earned for active and inactive service in the National Guard of any state other than Virginia if such out-of-state service is due to the taxpayer's military occupational specialty requirements.

cc : Secretary of Finance

Date: 1/15/2017 JJS
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